fendant below, a shipper, was indicted, convicted, and fined for accepting rebates and concessions from the Central R. R. of New Jersey in violation of the Elkins Act as amended in 1906 (38 STAT. AT L. 584). The defendant had leased its own road to the railroad company in 1871, the lessee covenanting that all coal shipped from the lessor's mines should be transported at a rate from a certain point, about 14 per cent less than other shippers paid. After the passage of the Elkins Act, with each tariff filed was a footnote reciting that "in compliance with the tenth Covenant of the lease from the Lehigh Coal and Navigation Company . . . a lateral allowance is made out of the herein named rates to the Lehigh Coal and Navigation Company." The shipper offered evidence that he received this allowance, believing that this complied with the law. The court below rejected this evidence of good faith, but certified the question to the Supreme Court. *Held*, that the evidence should have been received. *Lehigh Coal & Navigation Co.* v. *United States*, U. S. Sup. Ct., October Term, 1919, No. 38.

The essential idea of the Interstate Commerce Acts is that the filed and published rates shall be a definite standard for all. See *New Haven R. R.* v. *I. C. C.*, 200 U. S. 361, 391, 398; *Lehigh Valley R. R.* v. *United States*, 243 U. S. 444, 446. Any device whereby one shipper's goods are carried for a lower rate, directly or indirectly, is prohibited. *United States* v. *Union Stockyards Transit Co.*, 226 U. S. 286; *Armour Packing Co.* v. *United States*, 209 U. S. 56. Discrimination is unnecessary. *Vandalia R. R.* v. *United States*, 226 Fed. 713. All prior contracts whereby special rates or favors were given are abrogated by the Act. *Louisville & Nashville R. R.* v. *Mottley*, 219 U. S. 467; *Armour Packing Co.* v. *United States*, *supra*. Good faith in the sense of absence of an intent to violate the statute is immaterial. *C. St. P. M. & O. Ry.* v. *United States*, 162 Fed. 835, *certiorari* denied, 212 U. S. 579; *Armour Packing Co.* v. *United States*, *supra*. But see *Standard Oil Co. of Indiana* v. *United States*, 164 Fed. 376. The court in the principal case apparently assumes and correctly so, that the filing of this clause of the lease did not satisfy the statute. See *Armour Packing Co.* v. *United States*, 209 U. S. 56, 81. *Cf. Boston & Maine R. R.* v. *Hooker*, 233 U. S. 97. It is difficult to regard good faith in believing that one has complied with the statute as of greater weight than good faith in the sense of absence of intent to evade the statute. The carrier involved in the principal case was indicted and convicted on the same facts and a writ of *certiorari* was denied by the Supreme Court. *Central R. R. of New Jersey* v. *United States*, 229 Fed. 501, *certiorari* denied, 241 U. S. 658. Although the cases are distinguishable on the point of procedure, the Act would seem to place carrier and shipper on the same footing, and what is a crime for one should be a crime for the other unless we adopt the too common theory that a railroad is *a fortiori* a criminal.

CHARITABLE USES AND TRUSTS — *CY-PRÈS* — WHETHER BETTER SATISFACTION OF ARTISTIC SENSE JUSTIFIES A CHANGE. — A church was the trustee of a fund that had been collected to procure and erect a statue of an ecclesiastic near the church. After the statue had been erected, the church sought permission to substitute another statue of the same ecclesiastic, purchased by authority of the court from the surplus funds on the ground that the latter was artistically the superior. *Held*, that the change cannot be allowed. *Eliot* v. *Attwill*, 122 N. E. 648 (Mass.).

For a discussion of this case, see NOTES, p. 598, *supra*.

CONSTITUTIONAL LAW — POWERS OF LEGISLATURE: DELEGATION OF POWERS — INITIATIVE AND REFERENDUM IN CANADA. — The legislative assembly of Manitoba passed an act providing that laws might be made and repealed by direct vote of the electors. (6 GEO. V, c. 59, Manitoba.) The act

detracted from the powers of the Lieutenant-Governor as given by the British North America Act (30 VICT., c. 3, §§ 54, 56, 90). Provision is made by § 92 (1) of the latter act: "In each Province, the Legislature may exclusively make laws in relation to . . . the amendment, from time to time . . . of the Constitution of the Province, except as regards the office of Lieutenant-Governor." *Held*, that the Manitoba act is *ultra vires*. *In re the Initiative and Referendum Act*, [1919] A. C. 935 (Privy Council).

In the United States, it would seem that provision for the initiative and referendum may not be made by state statute, due to the constitutional principle that legislative power is delegated by the people to a definite legislative body, which cannot in turn pass its powers on. *Ex parte Wall*, 48 Cal. 279, 315; *C. W. & Z. R. R.* v. *Clinton County*, 1 Ohio St., 77, 87. See 16 HARV. L. REV. 218. Such legislative device may be secured, however, through constitutional provision or amendment, and does not contravene the Federal Constitution, which guarantees to the states a republican form of government. *Kadderly* v. *Portland*, 44 Ore. 118, 74 Pac. 710; *State* v. *Hutchinson*, 93 Kan. 405, 144 Pac. 241. See 24 HARV. L. REV. 141. In Canada the British North America Act constitutes the fundamental law, and is the charter by which the rights of the dominion and provincial governments are to be determined. *Mercer* v. *Attorney-General*, 5 Can. S. C. 538, 675. Within the limits prescribed by § 92 of that act, the provincial legislatures are deemed to have plenary authority — are not considered mere delegates of the Imperial Parliament. See LEFROY, CANADA'S FEDERAL SYSTEM, 64. Accordingly, they may seek the assistance of subordinate agencies for the enactment of local regulations, such as the licensing and control of taverns. *Hodge* v. *The Queen*, L. R. 9 A. C. 117, 132. And they may legislate conditionally; for example, by prescribing that an act shall come into operation only on the petition of a majority of electors. *Russell* v. *The Queen*, L. R. 7 A. C. 829, 835. It has also been suggested that, not being themselves delegates, they may endow a new and different legislative body with their powers. See LEFROY, CONSTITUTIONAL LAW OF CANADA, 69; CANADA'S FEDERAL SYSTEM, 65, 69. This problem was adverted to in the principal case, but no opinion was expressed, the court considering that the case was concluded on the short ground that the provincial legislature had, in taking from the powers of the Lieutenant-Governor, exceeded an express limitation.

CONSTITUTIONAL LAW — POWERS OF LEGISLATURE: THE WAR POWER — WAR-TIME PROHIBITION. — On November 21, 1918, after the armistice with Germany had been signed, the War-Time Prohibition Act was approved, the act providing that after June 30, 1918, until the conclusion of the war and the termination of demobilization, the date to be proclaimed by the President, it should be unlawful to sell for beverage purposes any distilled spirits. Injunctions were asked against internal revenue collectors to restrain them from taking steps under the act. *Held*, that the act is constitutional. *Hamilton* v. *Kentucky Distilleries and Warehouse Co.; Dryfoos et al.* v. *Edwards*, U. S. Sup. Ct., Nos. 589 and 602, October Term, 1919.

On October 28, 1919, the Volstead Act was passed over the President's veto, providing that the words "beer, wine, or other intoxicating malt or vinous liquors" in the War-Time Prohibition Act should be construed to mean any liquors which contain in excess of one half of one per cent alcohol. Suit was brought to restrain the enforcement of the act. *Held*, that the act is constitutional. McReynolds, Day, Van Devanter, and Clarke, JJ., dissenting. *Ruppert* v. *Caffey*, U. S. Sup. Ct., No. 603, October Term, 1919.

For a discussion of these cases, see NOTES, p. 585, *supra*.

CONTRACTS — CONSTRUCTION — DURATION OF A CONTRACT IN THE ABSENCE OF A SPECIFIED TIME LIMIT. — The plaintiff, a liquor dealer, in sub-